

**IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
CIVIL WRIT PETITION NO. 711 (S/S) of 2003**

Mohan Chandra Mishra
S/o Sri Ganesh Datt Mishra
R/o Rajbhawan Campus
Nainital Uttaranchal

.....Petitioner

Vs.

1. Garden Oversear, Rajbhawan, Nainital
2. Deputy Director Horticulture and
Food Processing Department Kumaon
District Nainital
3. Director Food Processing Department
Uttaranchal, Udyan Bhawan
Chaubatiya Ranikhet
District Almora

....Respondents

Court No. 5
Date : 13.11.2003

Hon'ble M.M. Ghildiyal, J.

By means of this present writ petition, the petitioner has challenged the order dated 24.07.2003 passed by respondent no. 1 terminating the petitioner from the service.

Heard Sri J.C. Joshi learned counsel for the petitioner and learned standing counsel.

Counter affidavit has been filed by the respondents and both the parties have agreed to dispose of the writ petition finally at the admission stage itself.

The contention of the petitioner is that he was appointed as a Gardner in the year 1985 on daily wage basis and since then he is continuously working and performing his duties as a Gardner at Rajbhawan Garden, Nainital. However, the respondents without any show cause notice and without giving any opportunity to him has terminated from his service w.e.f. 24.07.2003.

The respondents in their counter affidavit has taken a stand that the petitioner was serving as a daily wages and was having animals in the quarter which was allotted to him in the premises of Rajbhawan. He was repeatedly asked to remove the animals as no one is permitted to keep the animals within the premises of Rajbhawan. Since he did not comply the order, the petitioner was removed from service. Before the hearing of the writ petition the petitioner

removed the animals from the premises, this fact is not denied by the respondents.

During the course of hearing learned Standing Counsel has submitted that the petitioner has been asked to resume duty as a Gardner either at Sathdungi or at Kaladungi. Learned counsel for the petitioner has submitted that the petitioner has never been informed about the order of the respondents by which respondents have offered to the petitioner to work either at Sathdungi or at Kaladungi. He has further submitted that the petitioner is willing to work at Kaladungi. Learned Standing Counsel has submitted that the respondents shall issue necessary orders giving job to the petitioner at Kaladungi.

In view of the aforesaid facts the respondents are directed to issue necessary order within a period of one week from the date of receipt of the certified copy of this order and the petitioner shall thereafter join at the place within a period of one week. In case the respondents consider the regularization of other Gardeners who are working on daily wage basis, the case of petitioner shall also be considered ignoring the fact that he was out of job since 24.07.2003 till he joins at Kaladungi as per observations made above.

With these observations the writ petition is finally disposed of.

(M.M. Ghildiyal J.)

13.11.2003
ASWAL